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FILE NO: 86885.2

December 6, 2016

The Honorable Judge John A. Gibney, Jr.
United States District Court for
The Eastern District of Virginia
701 East Broad Street
Richmond, VA 23219

Re: Limelight Networks, Inc. v. XO Communications, LLC et al
Case No. 3:15-cv-720

Dear Judge Gibney,

I write on behalf of Limelight Networks, Inc., plaintiff in the above captioned matter, to respectfully request that the Court set a hearing for the following motions, which are now pending before this Court:

- 1) Limelight Networks, Inc.'s Motion for Summary Judgment (D.E. 224) asserting non-infringement of Akamai's 959, 088, and 133 Patents, invalidity of Akamai's 178 Patent, infringement of Limelight's 324 Patent, and no invalidity of Limelight's 577 Patent;
- 2) Limelight Networks, Inc.'s Motion to Strike Portions of the Expert Reports of Akamai's Experts Dr. Nader Mir, Paul Meyer, and Dr. Samrat Bhattacharjee and to Preclude Trial Testimony Pursuant to Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharm. Inc.* (D.E. 238);
- 3) Limelight Networks, Inc.'s Motion to Strike (D.E. 244) seeking to strike Akamai's untimely disclosed non-infringing alternatives, untimely produced information regarding extent of use and purported prior use of Limelight's 348 Patent, and untimely asserted conception date as to Akamai's 088 Patent;
- 4) Akamai Technologies, Inc.'s Motion for Summary Judgment (D.E. 218) asserting invalidity of Limelight's 324 and 577 Patents, non-infringement of Limelight's 155 Patent, and limitation on pre-suit damages; and

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5) Akamai Technologies, Inc.'s Motion to Exclude Testimony of Stephen D. Prowse (D.E. 231).

Both parties' summary judgment motions are fully briefed as of the date of this letter and by Monday, December 12, all of the above-listed motions will be fully briefed and ready for decision by this Court. Taken together these pending motions affect a significant portion of the substantive issues currently slated to be tried to a jury beginning on January 3, 2017. Limelight respectfully submits that an early hearing to address the parties' summary judgment and *Daubert* motions and Limelight's motion to strike will be beneficial to both sides of this case, and has the potential to benefit the Court's trial management and result in more streamlined presentations to the jury.

For these reasons, Limelight respectfully requests that the Court schedule a hearing on the motions listed above for the Court's earliest convenience, preferably on December 12, 13, 14. In the event that those dates are not convenient for the Court, Limelight requests the hearing to be December 19, if that would be convenient, or to be combined with the December 20 pretrial conference. Counsel for Limelight is available for such a hearing on any date at this Court's convenience.

Akamai informed Limelight that Akamai's counsel is unavailable December 12, 13 or 14 for a hearing because of the deposition of Limelight's expert scheduled for two of those days. With trial approaching January 3, Limelight submits that a prompt resolution of the pending motions is appropriate, and that given the size of the parties' legal teams it should not be an undue burden to attend a hearing and a deposition on the same day. However, Limelight is also willing to reschedule the deposition of Dr. Almeroth to facilitate a hearing on those dates.

Sincerely,

Maya M. Eckstein



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cc: Counsel of Record (by email)